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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/890,548	01/09/2002	Peng Chum Loh	5196-000003	4658

7590 05/29/2002
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EXAMINER

WESSMAN, ANDREW E

ART UNIT	PAPER NUMBER
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1742

DATE MAILED: 05/29/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

T.D-7

Office Action Summary	Application No. 09/890,548	Applicant(s) LOH, PENG CHUM	
	Examiner Andrew E Wessman	Art Unit 1742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>3</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-15 have been submitted for examination. Claims 1, 4, 5, 8-10, and 13-15 have been amended by preliminary amendment.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 8 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 8, the phrase "gold to aluminum ratio of at least 3.66" is indefinite because the basis on which the ratio is based is undefined. Please amend the claim to recite the basis on which the ratio is given, such as a ratio based upon weight or upon atomic basis. For the purposes of examination, it will be assumed that the ratio between gold and aluminum is based upon weight and that the claim would properly read "wherein the gold to aluminum ratio is at least 3.66, with the ratio based upon the weight percentages of the elements in the alloy".

In claim 12, it is unclear as to what is meant by "hereinbefore described with reference to the accompanying examples". It is not known what applicant is referring to as the "accompanying examples". This claim does not recite any specific structure that applicant regards as the invention. It would be improper to refer to the examples cited in the specification as subject matter of the claim, as applicant should point out and

distinctly claim the subject matter which applicant regards as the invention, and this should be done completely and clearly in the claims.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 4, 6, 7, 10, 11, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Japanese Patent No. 59093847 A.

Japanese Patent No. 59093847 A, henceforth referred to as JP '847, anticipates the invention substantially as claimed. JP '847 discloses (see English abstract) a gold-aluminum alloy with a purple color for ornamental use comprising 15-30 wt% aluminum with the balance (70-85 wt%) gold.

In regards to the features of claim 4, JP '847 discloses an alloy comprising 70-85 wt% gold, which encompasses the claimed range of 78.5-83.5 wt% Au in claim 4.

In regards to the features of claim 6, JP '847 discloses that the alloy comprises 15-30 wt% aluminum, encompassing the claimed range of 18.5-19.5 wt% Al in claim 6.

In regards to the features of claim 7, JP '847 discloses alloy compositions in which the gold to aluminum ratio by weight would be at least 3.66.

In regards to the features of claims 10 and 11, JP '847 teaches that articles containing jewelry metal components using an aluminum-gold alloy, and that the article may be an object of jewelry such as cuff links, tie pins, pendants or bracelets.

In regards to the features of claim 13, JP '847 teaches alloys that may comprise 15-30 wt% aluminum, and the balance gold. Because the claim states that 0 wt% of nickel and palladium is acceptable, this is within the scope of the JP '847 disclosure.

6. Claim 5 is rejected under 35 U.S.C. 102(b) as being anticipated by Japanese Patent No. 62240729 A.

Japanese Patent No. 62240729 A, henceforth referred to as JP '729, anticipates the claimed invention. JP '729 discloses (see English abstract) an aluminum-gold alloy for use in jewelry comprising 70-83 wt% gold and 30-17 wt% aluminum, and 7-30 wt% of at least one of nickel, cobalt, and palladium. JP '729 also discloses that the alloy has a purple color.

7. Claims 2 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by JP '847 and JP '729.

JP '847 anticipates the claimed invention. JP '847 discloses an alloy of gold and aluminum comprising 15-30 wt% aluminum and the balance gold, and the hardness value of the aluminum-gold alloy would inherently be approximately that of the aluminum-gold intermetallic Au_3Al compound. Because the compositions of the alloys of JP '847 and the claimed invention are substantially the same, the hardness values of JP '847 would inherently be the same as the claimed invention. Furthermore, as support for the examiner's position of such an inherent hardness value, the examiner directs applicant's attention to Japanese Patent No. 62240729 A, which discloses similar aluminum-gold alloys and gives hardness values for those alloys ranging from

240-310 Hv, which includes applicant's given value for the hardness of the intermetallic compound Au_3Al of 250 Hv.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 8, 9, and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP '729.

JP '729 teaches an alloy comprising 70-83 wt% gold and 30-17 wt% aluminum with an addition of 7-30 wt% of at least one of nickel, cobalt, and palladium. JP '729 also teaches that such an alloy will have an attractive purple color, desirable strength and hardness values, and corrosion resistance equivalent to a conventional gold alloy. JP '729 also teaches (col. 2, lines 1-5, oral translation by USPTO translator) that the function of adding nickel, cobalt, and palladium to the alloy is to adjust the color of the alloy to a desired shade. It has been held that omission of an element and its function is obvious if the function of the element is not desired. *Ex parte Wu*, 10 USPQ 2031 (Bd. Pat. App. & Inter. 1989). In this case, because the function of the addition of nickel, cobalt, or palladium is known, it would have been obvious to one of ordinary skill in the art to add amounts of less than 7 wt% such as 4.0wt% as claimed of the additions to the alloy in order to obtain an alloy with a desired color as disclosed by JP '729.

Conclusion

Art Unit: 1742

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew E Wessman whose telephone number is (703)305-3163. The examiner can normally be reached on Monday through Friday, 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on (703)308-1146. The fax phone numbers for the organization where this application or proceeding is assigned are (703)872-9310 for regular communications and (703)872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0661.

AEW
May 24, 2002

ROY KING *R JK*
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700